

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

IN RE:)
)
OPTIMA UNIVERSITY, LLC,) CASE NO. 09-11212
) Chapter 11
DEBTOR.)

AGREED ORDER ON MOTION FOR RELIEF
FROM AUTOMATIC STAY TO ALLOW CONTINUATION OF
PROSECUTION OF PENDING CIVIL ACTION FOR DAMAGES AND
INJUNCTIVE RELIEF

1. Debtor Optima University, LLC (“Debtor”) filed this Chapter 11 bankruptcy proceeding on March 23, 2009.
2. At the time Debtor commenced this proceeding, it was a Defendant in a pending action for damages and injunctive relief for copyright infringement filed by the National Board of Medical Examiners (“NBME”) and the Federation of State Medical Boards (“the Federation”) in the United States District Court for the Western District of

Tennessee styled *National Board of Medical Examiners and Federation of State Medical Boards v. Optima University LLC, Eihab Mohamed Suliman and John Does No. 1 through 10*, Civil Action No. 09-1043-JDB (the “Infringement Litigation”).

3. On April 16, 2009, NBME and the Federation filed in this case a Motion For Relief From Automatic Stay (Document # 22) (the “Motion”), seeking an order allowing them to continue prosecution of the Infringement Litigation. A hearing to consider the Motion is scheduled for May 13, 2009.

4. The Debtor, NBME, and the Federation have conferred and have reached the following agreement regarding the pending Motion, which they jointly request the Court to implement by way of this Stipulated Order. The Court finds that the requested relief is in the best interests of justice, is reasonable, and would not unduly prejudice any other creditors. Accordingly, it is hereby **ORDERED** as follows:

- a. The stay that would otherwise apply with respect to the Infringement Litigation under 11 U.S.C. § 362(a) is hereby lifted in accordance with the terms of this Stipulated Order.
- b. NBME and the Federation may immediately pursue each and every aspect of the Infringement Litigation through judgment on liability, including but not limited to pursuing party and third-party discovery, the resolution of any pending motions, the filing of additional motions, the joinder of additional defendants, and any other actions that NBME and the Federation elect to take in connection with the prosecution and pursuit of the Infringement Litigation and any interlocutory appeals in that action.

- c. The sole aspect as to which NBME and the Federation may not proceed at the present time is for a determination by the District Court in the Infringement Litigation of the amount of any compensatory or punitive damages that NBME and the Foundation may be entitled to recover from Debtor on their copyright infringement claims, in the event that there is a finding of infringement.
- d. NBME and the Federation may return to this Court at any time to request relief from the automatic stay as it remains in effect solely with respect to the determination and calculation of copyright damages that NBME and the Federation may be entitled to recover in the Infringement Litigation.
- e. The Debtor stipulates that the deadline to file a complaint to determine the dischargeability of the claim NBME and/or the Federation which may ultimately arise out of the Infringement Litigation shall be extended until December 31, 2009. In the event that NBME and the Federation need additional time to file such objection because of the status of the Infringement Litigation (including any appeals), a six-month extension will automatically be granted upon NBME and the Federation filing a notice with the Court.

The parties hereby agree to the terms of this Agreed Order and approve the same for entry.

APPROVED FOR ENTRY:

FOR NBME and THE FEDERATION:

RAINEY, KIZER, REVIERE & BELL, P.L.C.

/s/ Charles C. Exum

*Charles C. Exum, BPR No 014837
Attorney for National Board of Medical Examiners
and Federation of State Medical Boards
105 South Highland Avenue
P O Box 1147
Jackson, TN 38301-1146
731-423-2414

FOR DEBTOR OPTIMA UNIVERSITY, LLC:

/s/ Steven L. Lefkovitz

Steven L. Lefkovitz
Lefkovitz and Lefkovitz
618 Church Street #410
Nashville, TN 37219

Certificate of Service

Upon entry of this Order a copy will be served by the United States Bankruptcy Court by regular mail or electronic mail to the following:

U.S. Trustee,
Debtor
Debtor's Attorney
Attorney for Creditor cexum@raineykizer.com

Submitted this 15th day of May, 2009.

RAINEY, KIZER, REVIERE & BELL, P.L.C.

By: /s/ Charles C. Exum
Charles C. Exum, BPR No. 014837